

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Northern Division)

IN THE MATTER OF  
THE COMPLAINT OF  
ETERNITY SHIPPING, LTD. AND  
EUROCARRIERS, S.A.  
FOR EXONERATION FROM OR  
LIMITATION OF LIABILITY

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Civil Action No.: L01CV0250

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**REPLY OF CLAIMANT TATE & LYLE NORTH AMERICAN SUGARS, INC. TO  
THIRD PARTY DEFENDANT AMERICAN BUREAU OF SHIPPING'S  
MEMORANDUM OF LAW IN OPPOSITION TO TATE & LYLE'S MOTION FOR  
MODIFICATION OF THE DISCOVERY SCHEDULE AND LIMITATION  
PLAINTIFFS' OPPOSITION TO TATE & LYLE NORTH AMERICAN SUGARS,  
INC.'S MOTION FOR MODIFICATION OF THE DISCOVERY SCHEDULE**

NOW COMES Claimant, TATE & LYLE NORTH AMERICAN SUGARS, INC. (hereinafter referred to as "Tate & Lyle"), by and through its attorneys, ASPERGER ASSOCIATES LLC, and submits the following reply to Third Party Defendant American Bureau of Shipping's (hereinafter referred to as "ABS") Memorandum of Law in Opposition to Tate & Lyle's Motion for Modification of the Discovery Schedule and Limitation Plaintiffs' Opposition to Tate & Lyle North American Sugars, Inc.'s Motion for Modification of the Discovery Schedule.

ABS's Memorandum in Opposition misses the point. ABS has attempted to reargue what has already been decided by Judge Bredar. Tate & Lyle filed this motion because the parties could not reach agreement as to the meaning of Judge Bredar's order regarding modification of the discovery schedule. The case is at a standstill because ABS and Limitation Plaintiffs would not agree to submit a joint order for modification of the discovery schedule without a court order even though in Judge Bredar's Order, His Honor specifically stated "that a modification to the

discovery schedule order will be required” and ordered the parties to present a joint motion for such modification.

Judge Bredar’s Order also states that “a reopening of discovery to allow Claimant to establish its own expert evidence clearly will be sufficient” to address any prejudice it has suffered regarding Limitation Plaintiff’s failure to disclose Captain Popp’s reports. Indeed, Judge Bredar held that any prejudice to Tate & Lyle “is easily cured, and the Court disagrees that reopening discovery for this purpose would not adequately address such issue as there is.” Even with this clear mandate by Judge Bredar, ABS and Limitation Plaintiffs refuse to proceed with the deposition of Captain Popp in order to allow Tate & Lyle to establish its own expert evidence.

Tate & Lyle filed this motion to comply with the specific mandate from Judge Bredar and to break the logjam between the parties and move this case forward.

ASPERGER ASSOCIATES LLC

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/s/  
Jeffrey J. Asperger

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**SERVICE LIST**

I, Jeffrey J. Asperger, do hereby certify that a true and correct copy of the above and foregoing document was served via e-mail notification from the District Court and in the manner indicated upon:

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in accordance with all applicable provisions of the Federal Rules of Civil Procedure, on this 28th day of July, 2005.

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/s/  
Jeffrey J. Asperger